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**UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**

**QUENTIN TARANTINO**, an  
individual;

Plaintiff,

v.

) CASE NO. 14-CV-603-JFW (FFMx)  
) [HON. JOHN F. WALTER]

)  
) **JOINT REPORT OF RULE 26(f)**  
) **CONFERENCE OF COUNSEL**

**GAWKER MEDIA, LLC**, a/k/a  
Gawker Media, a Delaware corporation;  
**DOE-1, a/k/a ANONFILES.com**, an  
unknown entity/person, and **DOES 2**  
**through 10**, inclusive,  
  
Defendants.

**SCHEDULING CONFERENCE**

**DATE:** April 14, 2014  
**TIME:** 8:30 a.m.  
**DEPT:** Courtroom 16  
U.S. Courthouse  
312 N. Spring Street  
Los Angeles, CA 90012

**Other Scheduled Upcoming Hearings:**

**Hearing on Def's Motion to Dismiss**  
**Date:** April 14, 2014  
**Time:** 1:30 p.m.

**TO THE COURT AND TO ALL PARTIES HEREIN:**

Counsel for Plaintiff QUENTIN TARANTINO (“Tarantino” and/or  
“Plaintiff”), and counsel for Defendant GAWKER MEDIA, LLC (“Gawker” and/or  
“Defendant”) (collectively, the “Parties”), have conducted a meeting on the subjects  
prescribed by Fed. R. of Civ. Proc., Rule 26(f), by L-R 26-1, and pursuant to the  
Court’s Order setting the Scheduling Conference, and provide the following report:

///

1 **A. Basis for Subject Matter Jurisdiction**

2 This Court has exclusive subject matter and federal question jurisdiction over  
3 this action on the basis of and pursuant to the U.S. Copyright Act, 17 U.S.C. § 101 *et*  
4 *seq.*, and pursuant to 28 U.S.C. §§ 1331 and 1338, based on claims for relief for acts  
5 of copyright infringement and contributory copyright infringement committed in  
6 and/or with an affect in the United States (28 U.S.C. §§ 1331 and 1338(a)).

7 **B. Chronology of Facts and Statement of Principal Factual Issues in Dispute**

8 **1. Plaintiff's Chronology**

9 Plaintiff holds, by authorship, the exclusive copyright in the original  
10 unpublished unreleased motion picture screenplay and literary work entitled *The*  
11 *Hateful Eight* (the "Screenplay"). Plaintiff filed with the United States Copyright  
12 Office ("USCO") for copyright registration of the Screenplay as a "motion picture  
13 screenplay" "literary textual work", said registration completed and effective as of  
14 January 23, 2014 at 3:19:26 PM ET -- prior to defendants' alleged infringements.

15 Plaintiff asserts that this action was necessitated by Gawker's, and the other  
16 defendants', copyright infringement by their promotion and dissemination of  
17 unauthorized downloadable pdf copies of the leaked unreleased Screenplay.

18 After Tarantino wrote the Screenplay, he provided it, on a confidential basis,  
19 to a total of six Hollywood actors and producers for their consideration of possible  
20 parts and production. On or about January 21, 2014, Plaintiff discovered that a copy  
21 of his unpublished Screenplay had, without his authorization, been leaked to certain  
22 members of the entertainment industry, albeit in a limited manner (*i.e.*, through  
23 January 23, Plaintiff contends there were no positive online search engine results for  
24 a copy of the script). On January 22, 2014, Gawker posted an article on the  
25 "Defamer" section of its Gawker Website (Gawker's "January 22nd Article") about  
26 the occurrence of the leaked script and about Plaintiff's public statements on the  
27 matter. As no copies were publicly available or locatable online, Plaintiff contends,  
28 in Gawker's January 22nd Article, Gawker also solicited its readers to provide it with

1 an unauthorized copy of the Screenplay, stating “if anyone would like to ... leak the  
2 script to us, please do so at [email address].” Thereafter, on January 23, 2014 at 4:50  
3 PM ET, Gawker posted an article on its Gawker Website (Gawker's "January 23rd  
4 Article") with direct URL click-through links for the downloading of a full complete  
5 pdf copy of the unpublished registered Screenplay, posted for download on the  
6 obscure file upload website AnonFiles.com (“AnonFiles Website”). In its January  
7 23rd Article, titled *"Here Is the Leaked Quentin Tarantino Hateful Eight Script"*,  
8 Plaintiff contends Gawker directed, encouraged and solicited its readers and the  
9 general public with click-through URL links on where and how (i.e., “*Here*”) to  
10 obtain an unauthorized downloadable pdf copy of the Screenplay. Plaintiff contends  
11 that Gawker encouraged Internet users to download and read the Screenplay  
12 illegally, with the invitation that the “*document is 146 pages of pure Tarantino.*  
13 *Enjoy!*”, with the text “146 pages” also a URL click-through link directly to the  
14 downloadable copy of the Screenplay. Notwithstanding Plaintiff’s repeat demands  
15 and DMCA notice for the removal of the posted URL links, Gawker expressly  
16 refused to remove the URL links to download the material.

17 Plaintiff contends that Gawker intended to and did directly cause, contribute  
18 to, enable, facilitate, aid, abet, induce and/or participate in the infringement of  
19 Plaintiff’s copyrighted work. Plaintiff alleges that, as Gawker’s article linked to the  
20 first (and otherwise unknown) incidence of the complete Screenplay posted online,  
21 Gawker’s article and links became the source for public spread of the leak. Plaintiff  
22 alleges that the general public would not have known about or found the complete  
23 copy of the Screenplay on the AnonFiles Website if not for Gawker’s article post and  
24 specific click-through URL links to the otherwise unknown copy of the Screenplay.

25 As a result and in redress, Plaintiff advanced claims for relief for: (1)  
26 Copyright Infringement; and (2) Contributory Copyright Infringement.

## 27 **2. Defendant’s Chronology**

28 Defendant contends that, after Tarantino wrote a script titled “The Hateful

1 Eight,” he provided it to certain Hollywood actors and producers. Tarantino claims  
 2 to have discovered on January 21, 2014 that the script had been “leaked.” That same  
 3 day, Defendant contends that Tarantino called a reporter at the entertainment website  
 4 *Deadline Hollywood* and solicited media coverage regarding the leak of his script.  
 5 According to published reports, Tarantino stated that because of the script’s leak he  
 6 was abandoning the movie project based on “The Hateful Eight” script. Defendant  
 7 alleges that according to published reports Tarantino stated he was doing so despite  
 8 the fact that he does not have an aversion to Internet commentators evaluating his  
 9 screenplays and, in fact, “like[s] the fact that everyone eventually posts [his scripts],  
 10 gets [them], and reviews [them] on the net.”<sup>1</sup>

11 Gawker contends that significant media coverage ensued, including by  
 12 defendant Gawker, regarding Tarantino’s remarks and the circulation of the script.  
 13 At some point, unknown persons – that Gawker contends are unaffiliated with  
 14 Gawker – uploaded copies of the “Hateful Eight” script to at least the website  
 15 anonfiles.com, and then to scribd.com, and possibly other sites.<sup>2</sup> Gawker published a  
 16 follow-up report regarding this development that included hyperlinks to the pages on  
 17 those websites where the script could be found. Those links soon went dead after  
 18 those websites apparently disabled the webpages in question. The links remain dead.

19 Tarantino then filed this lawsuit. He sued AnonFiles.com (as DOE-1) for  
 20 copyright infringement, but has not yet served it. He also sued various Gawker-  
 21 related entities for contributory copyright infringement because of the hyperlinks to  
 22 anonfiles.com and scribd.com included within Gawker’s news report. The lone  
 23

24 <sup>1</sup> Plaintiff contends that this unauthenticated truncated quote from another media  
 25 outlet is (without agreeing as to the accuracy of the purported quote) misrepresented  
 26 and out-of-context by Defendant, as Tarantino was not referring to the posting of or  
 the public getting unfinished, unpublished, unreleased confidential scripts, and of  
 scripts not yet produced as films, but completed published released works.

27 <sup>2</sup> Despite Tarantino’s assertion that the script was not publicly available online until  
 28 January 23, 2014, Defendant contends that it is possible that the script was, in fact,  
 available online prior.

1 remaining Gawker-related defendant, Gawker Media, LLC, has filed a motion to  
 2 dismiss Tarantino's claim based on his failure to state a valid contributory copyright  
 3 claim and on the independent ground of fair use under 17 U.S.C. § 107.

### 4 **3. Statement of Principal Factual Issues in Dispute**

5 The principal factual issues in dispute include: the circumstances under which  
 6 Tarantino provided the "Hateful Eight" script to others; who uploaded and/or  
 7 contributed to the uploading of the script on Anonfiles.com and Scribd.com and/or  
 8 other websites; what copyright infringement occurred online and who is responsible  
 9 for any infringement; what damages, if any, Tarantino suffered from the alleged  
 10 copyright infringement; what value, if any, the script has, including independent of a  
 11 film adaptation; whether the leak was Tarantino's reason for possibly abandoning  
 12 (or temporarily shelving) the project to adapt the script into a motion picture.

### 13 **C. Statement of Disputed Points of Law & Unusual Legal Issues of the Case**

14 The parties dispute the basis for liability for contributory infringement,  
 15 whether Plaintiff can state a claim for it, and the basis and calculation of damages. A  
 16 legal issue also relates to Gawker's assertion of and contention that a "fair use"  
 17 defense is applicable to a claim for contributory infringement. Additional issues of  
 18 disputed points of law are set forth in Section "D" hereunder.

### 19 **D. Motions - Prior and Pending, Current Status, and Anticipated Motions**

20 **1. Prior Motions:** Defendant Gawker Media Group, Inc., a/k/a Gawker  
 21 Media, a Cayman Islands corporation ("GMGI"), previously filed a Motion to  
 22 Dismiss the Complaint pursuant to F.R.C.P., Rule 12(b)(2) (Docket Document 11).  
 23 GMGI's Motion was rendered moot after the parties entered into a Stipulation of  
 24 Dismissal of GMGI, without prejudice. Plaintiff reserves the right to seek leave to  
 25 re-add it should discovery evidence it to be an alter ego of Gawker or otherwise  
 26 subject to jurisdiction. Gawker reserves the right to oppose such a motion.

27 **2. Pending Motion:** Defendant Gawker filed a Motion to Dismiss the  
 28 Complaint pursuant to F.R.C.P., Rule 12(b)(6), which is set for hearing on Monday.

1 April 14, 2014, at **1:30 p.m.**, the afternoon of the same day the Scheduling  
 2 Conference is scheduled for **8:30 a.m.**<sup>3</sup>

3 **3. Anticipated:** Plaintiff and Defendant both anticipate filing Motion(s)  
 4 for Summary Judgment and/or Partial Summary Judgment. In addition, Plaintiff  
 5 anticipates the potential necessity of advancing an Ex Parte Application or Motion on  
 6 Shortened Time, for orders deeming Plaintiff's service of the Summons and  
 7 Complaint on Defendant DOE-1, a/k/a AnonFiles.com (the "AnonFiles") valid and  
 8 effective, or, in the alternative, permitting alternative methods of service of process  
 9 on the currently anonymous foreign AnonFiles defendants, pursuant to  
 10 Fed.R.Civ.Proc., Rule 4(f)(3), by means of e-mail, and/or for additional time in  
 11 which to effect service, pursuant to Fed.R.Civ.Proc., Rule 4(m), and, further, for  
 12 leave to conduct pre-service discovery on third-parties and named defendants related  
 13 to locating the AnonFiles defendants' physical local, and their true identities.

14 Gawker objects insofar it is among the "named defendants" upon whom such  
 15 discovery may be sought through shortened or ex parte application. It otherwise  
 16 reserves its rights to object depending upon the substance of such applications.

17 **E. Extent to Which Parties, Claims, or Defenses Are Expected to Be Added**  
 18 **or Dismissed, and Proposed Deadline for Amending Pleadings**

19 Plaintiff intends to substitute Doe defendants for their true identities and may  
 20 add additional parties depending on what is revealed during the discovery process.  
 21 One substitution of a Doe defendant relates to the operators of AnonFiles.com. An  
 22 additional possible substitution of a Doe defendant, pending discovery, relates to  
 23 Hungarian-based entity "Blogwire Hungary Szellemi Alkotást Hasznosító Korlátolt  
 24 Felelősségű Társaság" (which translates as Blogwire Hungary Intellectual Property  
 25 Exploitation LLC) ("Blogwire"), which Plaintiff contends is a "sister" entity of  
 26 Gawker that is owned by Gawker's parent company GMGI. Blogwire is the

27 \_\_\_\_\_  
 28 <sup>3</sup> The Parties respectfully request that the Court consolidate the two hearings.



1 registrant of the domain name Gawker.com, and Plaintiff contends it operates  
2 Gawker's technology and intellectual property, including related to Gawker.com.

3 Gawker disputes that this entity would be a proper defendant and/or subject to  
4 personal jurisdiction. If/when discovery reveals the need to name additional parties,  
5 the Parties may seek leave from the Court, with Parties reserving their right to object.

6 **F. Initial Disclosure Compliance -- Fed. R. Civ. P. 26**

7 The Parties agree that they will make their initial disclosures within 14-days  
8 following the Court's issuance of a ruling on Defendant's pending Motion to Dismiss  
9 pursuant to 12(b)(6), but no earlier than April 28, 2014.

10 **G. Discovery -- Fed. R. Civ. P. 26(f)**

11 **1. Status** - With the exception as to possible immediate discovery to locate  
12 and identify the Doe-1 AnonFiles defendants, formal discovery shall commence  
13 fourteen (14) days following the Court's issuance of a ruling on Defendant's pending  
14 Motion to Dismiss pursuant to 12(b)(6), but no earlier than April 28, 2014.

15 **2. Scope/Subjects of Discovery** - The Parties anticipate that the subjects  
16 on which discovery will be needed include, but may not be limited to (i) matters  
17 asserted in the complaint and in the articles and interviews referenced therein,  
18 including matters relating to Tarantino's provision of the script to certain actors and  
19 producers, interviews Tarantino gave concerning the script's dissemination beyond  
20 those individuals, the uploading of the script to the anonfiles.com and scribd.com  
21 websites and/or other websites, and the dissemination, if any, of copies of the script  
22 via those websites, and Gawker's articles regarding the leaked script, including  
23 hyperlinking to the anonfiles.com and scribd.com websites; (ii) the facts and  
24 elements of and giving rise to the claims for copyright infringement, and for  
25 contributory infringement; (iii) defendants' affirmative defenses; (iv) damages, the  
26 basis of, and calculations thereof; and (v) discovery of Gawker's profits.

27 **3. Rule 26(f)(3): Changes In Discovery Limitations** - The Parties do not  
28 anticipate changes at this time, other than as to the initial disclosures and



1 commencement date, and as to a discovery protective order.

2       **4.     Rule 26(f)(4): Additional Discovery Orders** - The Parties believe that  
 3 they will be able to agree on a form of Protective Order to protect the confidentiality  
 4 of, and to prohibit the unauthorized use of, any confidential information that may be  
 5 required to be disclosed during discovery, and to otherwise protect the privacy rights  
 6 of parties to this action, however, if agreement on a form of Protective Order cannot  
 7 be reached, it may be necessary for the parties to engage the Court/Magistrate.

8 **H.     Related Cases or Proceedings** - None.

9 **I.     Relief Sought**

10       **1.     Plaintiff's Statement of Relief Sought Pursuant to the Complaint**

11       As to both the First Claim for Relief (For Violation of Copyright) and the  
 12 Second Claim for Relief (For Contributory Violation of Copyright), Plaintiff seeks  
 13 the following relief: (1) Actual damages and Defendants' profits in an amount  
 14 exceeding \$1,000,000 to be determined at trial; (2) Statutory damages; (3) Punitive  
 15 and exemplary damages; (4) An injunction, enjoining Defendants, and persons acting  
 16 in concert with them, from continuing to reproduce, distribute, display, disseminate,  
 17 transmit, make available for download or otherwise use the Screenplay in any  
 18 manner in violation of Plaintiff's copyright; (5) Attorneys' fees and costs, pursuant to  
 19 17 U.S.C. §§502-505; (6) Interest on the above-requested damages; and (7) For such  
 20 other additional relief as the Court deems just and proper.

21       Plaintiff is a multiple Oscar winning and nominated writer and director, and  
 22 his original screenplays have substantial established value. The basis on which the  
 23 amount of damages are calculated is either (i) maximum statutory damages pursuant  
 24 to the Copyright Act or, (ii) actual damages based on damage to Plaintiff's business  
 25 and profession, and loss of value of the Screenplay both as a motion picture  
 26 screenplay and as a published literary work for substantial advances and royalties,  
 27 and disgorgement based on Gawker's profits.

1           **2.     Defendant's Contention as to Calculation of Damages if Liability**  
2           **Were Established**

3           Defendant denies liability and therefore denies Plaintiff is entitled to damages.  
4           In addition, Defendant intends to seek its attorneys' fees if the prevailing party. If  
5           liability were established, however, damages should be calculated pursuant to the  
6           relevant provisions in the Copyright Act and authorities applying those provisions.  
7           Plaintiff would not be entitled to purported actual damages that are speculative or  
8           otherwise improper. Nor would Plaintiff be entitled to punitive damages, which are  
9           not available under the Copyright Act and which Plaintiff has disclaimed. Dkt. No.  
10          26 at p. 31. Statutory damages would be limited to the minimum set forth in 17  
11          U.S.C. § 504(c) based on, among other things, Gawker's good-faith belief that its  
12          alleged contributory infringement is shielded from liability by the fair use doctrine.

13          **J.     Certification as to Interested Parties or Persons** - All appearing Parties  
14          have filed a Certification as to Interested Parties or Persons.

15               **1.     Plaintiff's Certification Contents (Restated)**

16               (i)     Quentin Tarantino -- Plaintiff;  
17               (ii)     Gawker Media, LLC, a Delaware Corporation -- Defendant;  
18               (iii)    Gawker Entertainment, LLC, a New York corp. -- Defendant,  
19           dismissed, without prejudice, upon evidence it is currently an inactive entity;  
20               (iv)    Gawker Media Group, Inc., Cayman Islands entity -- Defendant  
21           "GMGI", parent company of Gawker Media, LLC, dismissed, without prejudice,  
22           pending further investigation and discovery as to jurisdiction, alter ego and conduct;  
23               (v)     DOE-1, a/k/a AnonFiles.com, an unknown entity/person -- Def;  
24               (vi)    Blogwire Hungary Szellemi Alkotást Hasznosító Korlátolt  
25           Felelősségű Társaság -- Additional potential Defendant and Interested Party, as noted  
26           above in Section E.

1           **2.     Defendant's Certification Contents (Restated)**

- 2                   (i)     Gawker Media, LLC, Defendant.
- 3                   (ii)    Gawker Media Group, Inc. -- parent corporation of Defendant.
- 4                   (iii)   American International Group, Inc – insurer of Defendant.

5       **K.     Proposed Case Management Dates**

6           The Parties propose the following case management dates (subject to change if

7     the trial date is earlier/later than requested):

- 8           a.     Rule 26(a) Initial Report/Disclosures: 14-days following a ruling on
- 9                   Defendant's Motion to Dismiss, but no earlier than April 28, 2014
- 10          b.     Date discovery to commence: 14-days following a ruling on
- 11                   Defendant's Motion to Dismiss, but no earlier than April 28, 2014
- 12          c.     Deadline to add parties or amend pleadings: 180-days prior to trial date
- 13          d.     Date for completion of fact discovery: 120-days prior to the trial date
- 14          e.     Last hearing date for fact discovery motions: 90-days prior to trial date
- 15          f.     Last date for exchange of expert disclosures (including written expert
- 16                         reports): 120-days prior to the trial date
- 17          g.     Last date for exchange of rebuttal expert disclosures (including written
- 18                         expert reports): 90-days prior to the trial date
- 19          h.     Date for completion of expert discovery: 60-days prior to the trial date
- 20          i.     Last hearing date for expert discovery motions: 60-days prior to trial
- 21          j.     Last hearing date for dispositive motions: 45-days prior to the trial date

22       **L.     Proposed Pre-Trial Conference and Trial Dates**

23           In order to provide the Parties the time necessary to engage in discovery and

24     advance any dispositive motions, and based on current case and calendar

25     commitments, the parties propose the following dates:

- 26           a.     Pre-Trial Conf. Date: 10-Court-Days prior to the trial date
- 27           b.     Trial Date: March 2015

1 **M. Trial Estimate - Jury Trial** - Trial by jury. Parties expect a trial would last  
 2 4-7 court days, in addition to time for the jury selection process for a trial by jury.

3 **N. Settlement** - The Parties have not yet engaged in settlement discussions. No  
 4 discussions are anticipated prior to a ruling on defendant's Motion to Dismiss, and  
 5 thereafter, no discussions are anticipated prior to completion of initial written  
 6 discovery and oral depositions. The parties propose to participate in the mandatory  
 7 "ADR Procedure No. 1," before the assigned Magistrate, with a proposed date of no  
 8 sooner than 180-days following the commencement of discovery and no later than  
 9 45-days before the Pre-Trial Conference.

10 **O. Complex Case** - The Parties do not believe this is a complex case.

11 **P. Dispositive Motions** - The Parties anticipate filing motions for summary  
 12 judgment and/or partial summary judgment on one or more of the primary claims  
 13 asserted in this action. Following discovery, the Parties will be better able to  
 14 determine the exact issues on which these motions will or may be directed.

15 Respectfully Submitted,

16 DATED: April 1, 2014

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19 By: /s/ Evan Spiegel  
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 21 QUENTIN TARANTINO

22 DATED: April 1, 2014

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